

records in a timely fashion in accordance with the Privacy Act and regulation;

(2) Make any amendment of records accurately and in a timely fashion;

(3) Inform all persons whom the accounting records show have received copies of the record prior to the amendments of the correction; and

(4) Associate any statement of disagreement with the disputed record, and

(a) Transmit a copy of the statement to all persons whom the accounting records show have received a copy of the disputed record, and

(b) Transmit that statement with any future disclosure.

PART 402—AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC

Sec.

402.5 Scope and purpose.

402.10 Policy.

402.15 Relationship between the FOIA and the Privacy Act of 1974.

402.20 Requests not handled under the FOIA.

402.25 Referral of requests outside of SSA.

402.30 Definitions.

402.35 Publication.

402.40 Publications for sale.

402.45 Availability of records.

402.50 Availability of administrative staff manuals.

402.55 Materials available at district offices and branch offices.

402.60 Materials in field offices of the Office of Hearings and Appeals.

402.65 Health care information.

402.70 Reasons for withholding some records.

402.75 Exemption one for withholding records: National defense and foreign policy.

402.80 Exemption two for withholding records: Internal personnel rules and practices.

402.85 Exemption three for withholding records: Records exempted by other statutes.

402.90 Exemption four for withholding records: Trade secrets and confidential commercial or financial information.

402.95 Exemption five for withholding records: Internal memoranda.

402.100 Exemption six: Clearly unwarranted invasion of personal privacy.

402.105 Exemption seven for withholding records: Law enforcement.

402.110 Exemptions eight and nine for withholding records: Records on financial institutions; records on wells.

402.125 Who may release a record.

402.130 How to request a record.

402.135 Where to send a request.

402.140 How a request for a record is processed.

402.145 Responding to your request.

402.150 Release of records.

402.155 Fees to be charged—categories of requests.

402.160 Fees to be charged—general provisions.

402.165 Fee schedule.

402.170 Fees for providing records and related services for program purposes pursuant to section 1106 of the Social Security Act.

402.175 Fees for providing information and related services for non-program purposes.

402.180 Procedure on assessing and collecting fees for providing records.

402.185 Waiver or reduction of fees in the public interest.

402.190 Officials who may deny a request for records under FOIA.

402.195 How a request is denied.

402.200 How to appeal a decision denying all or part of a request.

402.205 U.S. District Court action.

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§ 402.5 Scope and purpose.

The rules in this part relate to the availability to the public, pursuant to the Freedom of Information Act (FOIA) 5 U.S.C. 552, of records of the Social Security Administration (SSA). They describe how to make a FOIA request; who can release records and who can decide not to release; how much time it should take to make a determination regarding release; what fees may be charged; what records are available for public inspection; why some records are not released; and your right to appeal and then go to court if we refuse to release records. The rules in this part do not revoke, modify, or supersede the regulations of SSA relating to disclosure of information in part 401 of this chapter.

§ 402.10 Policy.

As a general policy, SSA follows a balanced approach in administering FOIA. We not only recognize the right of public access to information in the possession of SSA, but also protect the

Social Security Administration

§ 402.30

integrity of internal processes. In addition, we recognize the legitimate interests of organizations or persons who have submitted records to SSA or who would otherwise be affected by release of records. For example, we have no discretion to release certain records, such as trade secrets and confidential commercial information, prohibited from release by law. This policy calls for the fullest responsible disclosure consistent with those requirements of administrative necessity and confidentiality which are recognized in the FOIA.

§ 402.15 Relationship between the FOIA and the Privacy Act of 1974.

(a) *Coverage.* The FOIA and the rules in this part apply to all SSA records. The Privacy Act, 5 U.S.C. 552a, applies to records that are about individuals, but only if the records are in a system of records. "Individuals" and "system of records" are defined in the Privacy Act and in 20 CFR 401.25.

(b) *Requesting your own records.* If you are an individual and request records, then to the extent you are requesting your own records in a system of records, we will handle your request under the Privacy Act. If there is any record that we need not release to you under those provisions, we will also consider your request under the FOIA and this rule, and we will release the record to you if the FOIA requires it.

(c) *Requesting another individual's record.* Whether or not you are an individual, if you request records that are about an individual (other than yourself) and that are in a system of records, we will handle your request under the FOIA and the rules in this part. However, if our disclosure in response to your request would be permitted by the Privacy Act's disclosure provision, (5 U.S.C. 552a(b)), for reasons other than the requirements of the FOIA, and if we decide to make the disclosure, then we will not handle your request under the FOIA and the rules in this part. For example, when we make routine use disclosures pursuant to requests, we do not handle them under the FOIA and the rules in this part. ("Routine use" is defined in the Privacy Act and in 20 CFR 401.25.) If we handle your request under the FOIA

and the rules in this part and the FOIA does not require releasing the record to you, then the Privacy Act may prohibit the release and remove our discretion to release.

§ 402.20 Requests not handled under the FOIA.

(a) We will not handle your request under the FOIA and the regulations in this part to the extent it asks for records that are currently available, either from SSA or from another part of the Federal Government, under a separate statute that provides specific activity for charging fees for those records. For example, we will not handle your request under the FOIA and the regulations in this part to the extent it asks for detailed earnings statements under the Social Security program.

(b) We will not handle your request under the FOIA and the regulations in this part if you are seeking a record that is distributed by SSA as part of its regular program activity, for example, public information leaflets distributed by SSA.

§ 402.25 Referral of requests outside of SSA.

If you request records that were created by, or provided to us by, another Federal agency, and if that agency asserts control over the records, we may refer the records and your request to that agency. We may likewise refer requests for classified records to the agency that classified them. In these cases, the other agency will process and respond to your request, to the extent it concerns those records, under that agency's regulation, and you need not make a separate request to that agency. We will notify you when we refer your request to another agency.

§ 402.30 Definitions.

As used in this part,

Agency means any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the Federal Government, or any independent regulatory agency. A private organization is not an agency even if it is performing work under contract